

REMARKS

Applicant respectfully requests reconsideration. Claims 1-25 were previously pending in this application. By this amendment, Applicant is canceling claim 18 and previously withdrawn claims 20-25 without prejudice or disclaimer. Claims 17 and 19 have been amended. Claim 17 has been amended to change its dependency from claim 1 to claim 16, which provides a correct antecedent basis. As a result, claims 1-17 and 19 are pending for examination with claim 1 being an independent claim. No new matter has been added.

Rejections under 35 U.S.C. §112

The Examiner rejected claims 18 and 19 under 35 U.S.C. §112 as indefinite.

Applicants have cancelled claim 18. Applicants have amended claim 19 to replace claim language relating to “portion” with language from the specification that describes the use of an outer surface protein or a truncated outer surface protein that is functional to direct the display. Support for the amended language is found at least at page 100, line 17 through page 101, line 2; page 119, lines 12-17; and page 119, line 30 through page 120, line 2 of the replacement specification filed April 15, 2005. The amendment clarifies that the outer surface transport signal can be a outer surface protein or a truncated outer surface protein. Applicants submit that a truncated outer surface protein can be readily tested, using methods taught in the specification as filed, to ensure it functions to direct the display.

Accordingly, withdrawal of the rejection of claim 19 under 35 U.S.C. §112 is respectfully requested.

Double Patenting Rejection

The Examiner rejected claim 1 on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 1 of U.S. Patent No. 5,223,409 in view of Nayak et al., US. Patent No. 4,752,473, issued on June 21, 1988.

The Examiner rejected claims 1-3, 5, 6, 10-12, 16, and 19 on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 1 of U.S. Patent No. 6,979,538, in view of Nayak et al., U.S. Patent No. 4,752,473, issued on June 21, 1988.

The Examiner also rejected claims 1-3, 5, 6, 10-12, 16, 17, and 19 on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 1 of U.S. Patent No. 6,979,538, in view of Nayak et al., U.S. Patent No. 4,752,473, issued on June 21, 1988, in further view of Huston et al., PNAS USA 85:5879-5883 (1988).

The Examiner rejected claims 1-3, 5, 6, 10-12, 16, 17, and 19 on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 1 of U.S. Patent No. 6,979,538, in view of Nayak et al., U.S. Patent No. 4,752,473, issued on June 21, 1988, in further view of Murray et al., U.S. Patent No. 4,769,328, issued on September 6, 1988, and/or Sharon et al., PNAS USA 83:2628-2631, (1986).

Although Applicant does not concede the propriety of the rejection, see MPEP 804.02, Applicant submits herewith a Terminal Disclaimer over U.S. Patent Nos. 5,223,409 and 6,979,538.

Accordingly, withdrawal of the rejection of claims 1-3, 5, 6, 10-12, 16, 17, and 19 on the ground of nonstatutory obviousness-type double patenting is respectfully requested.

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CONCLUSION

A Notice of Allowance is respectfully requested. The Examiner is requested to call the undersigned at the telephone number listed below if this communication does not place the case in condition for allowance.

If this response is not considered timely filed and if a request for an extension of time is otherwise absent, Applicant hereby requests any necessary extension of time. If there is a fee occasioned by this response, including an extension fee, that is not covered by an enclosed check, please charge any deficiency to Deposit Account No. 23/2825.

Respectfully submitted,
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